

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

LOUIS ACOSTA,

Plaintiff,

v.

CALIFORNIA DEPARTMENT OF
CORRECTIONS AND
REHABILITATION, et al.,

Defendants.

Case No. 1:20-cv-01209-DAD-EPG (PC)

ORDER DENYING PLAINTIFF'S MOTION
FOR APPOINTMENT OF PRO BONO
COUNSEL, WITHOUT PREJUDICE

(ECF No. 43)

Louis Acosta ("Plaintiff") is a state prisoner proceeding *pro se* and *in forma pauperis* in this civil rights action.

On October 25, 2021, Plaintiff filed a motion for appointment of pro bono counsel. (ECF No. 43).¹ Plaintiff asks for appointment of counsel because he has no money; because the issues involved in this case are complex; because he has no legal training; and because he is having extreme trouble comprehending legal wording, comprehending procedures, investigating facts, and gathering evidence.

Plaintiff does not have a constitutional right to appointed counsel in this action, Rand v.

¹ The Court notes that when it appoints counsel, it is pro bono and not with a contingency fee arrangement.

1 Rowland, 113 F.3d 1520, 1525 (9th Cir. 1997), withdrawn in part on other grounds, 154 F.3d 952
2 (9th Cir. 1998), and the Court cannot require an attorney to represent Plaintiff pursuant to 28
3 U.S.C. § 1915(e)(1). Mallard v. United States District Court for the Southern District of Iowa,
4 490 U.S. 296, 298 (1989). However, in certain exceptional circumstances the Court may request
5 the voluntary assistance of counsel pursuant to section 1915(e)(1). Rand, 113 F.3d at 1525.

6 Without a reasonable method of securing and compensating counsel, the Court will seek
7 volunteer counsel only in the most serious and exceptional cases. In determining whether
8 “exceptional circumstances exist, a district court must evaluate both the likelihood of success of
9 the merits [and] the ability of the [plaintiff] to articulate his claims *pro se* in light of the
10 complexity of the legal issues involved.” Id. (citation and internal quotation marks omitted).

11 The Court will not order appointment of pro bono counsel at this time. The Court has
12 reviewed the record in this case, and at this time the Court is unable to make a determination that
13 Plaintiff is likely to succeed on the merits of his claims. Moreover, it appears that Plaintiff can
14 adequately articulate his claims.

15 Plaintiff is advised that he is not precluded from renewing his motion for appointment of
16 pro bono counsel at a later stage of the proceedings.

17 For the foregoing reasons, IT IS ORDERED that Plaintiff’s motion for appointment of pro
18 bono counsel is DENIED without prejudice.

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20 IT IS SO ORDERED.

21 Dated: October 26, 2021

22 /s/ Eric P. Shoup
23 UNITED STATES MAGISTRATE JUDGE
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